EXPLANATORY MEMORANDUM TO

THE LOCAL GOVERNMENT (STRUCTURAL CHANGES) (FURTHER FINANCIAL PROVISIONS AND AMENDMENT) (AMENDMENT) REGULATIONS 2020

2020 No. 124

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend The Local Government (Structural Changes) (Further Financial Provisions and Amendment) Regulations 2009 further to the implementation by order (S.I. 2019/957) of local government reorganisation in Buckinghamshire. The date specified for a general fund to be established is changed from 1st April 2019 to the date on which the structural change comes into effect ("the reorganisation date"). This generic date for the establishment of a general fund will apply to the new Buckinghamshire authority and also to future local government reorganisations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

5.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

6.1 Paragraph 16(4) of Part 2 of Schedule 1 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") inserted a new paragraph (3D) into section 91 of the Local Government Finance Act 1988. Paragraph (3D) outlines that for a district council or London Borough Council established by an order under Part 1 of the 2007 Act, or for a county council to which the functions of district councils in

relation to the county council's area are transferred by or in consequence of such an order, the general fund must be established on a date specified in the order or in regulations made under section 14 of the 2007 Act.

6.2 The Local Government (Structural Changes) (Further Financial Provisions and Amendment) Regulations 2009 (S.I. 2009/5) made provision for the establishment of general funds for such councils, specifying that the date on which a single tier council's general fund must be established is 1st April 2009. This date was updated to reflect local government reorganisation in Dorset, with the Local Government (Structural Changes) (General) (Amendment) Regulations 2018 (S.I. 2018/930) providing that the general fund should be established on 1st April 2019.

7. Policy background

7.1 The Government's 2017 manifesto contained a commitment to support those local authorities that wish to combine to serve their communities better and to consider locally-led proposals from councils that wished to reorganise. Buckinghamshire County Council brought forward proposals for a new unitary authority to replace the existing County and district councils in the area, which the Government is implementing.

7.2 The Buckinghamshire (Structural Changes) Order 2019 (S.I. 2019/957), which came into force on 23 May 2019, provides for the new council to take on full local government functions and powers on the abolition of the existing councils on 1st April 2020. It does so by:

- abolishing as local authority areas the districts of Aylesbury Vale, Chiltern, South Bucks and Wycombe;
- winding up and dissolving all five councils in Buckinghamshire – Buckinghamshire County Council, Aylesbury Vale District Council, Chiltern District Council, South Bucks District Council and Wycombe District Council;
- creating a new, non-metropolitan, district of Buckinghamshire, for the existing local government area of the county of Buckinghamshire and comprising the areas of the district councils; and
- disapplying the provision in the Local Government Act 1972 which requires that every county must have a council.

7.3 During the period from the Buckinghamshire (Structural Changes) Order 2019 coming into force until four days after the first elections to the new council are held on 7 May 2020, Buckinghamshire Council is a shadow authority, whose primary task is implementing the transition to a new single authority, assuming full local government functions and powers on 1st April 2020. The existing district and County councils will continue to operate until they are wound up and dissolved on 1st April 2020.

7.4 As an authority established by order under the 2007 Act, the new Buckinghamshire authority will be required to have a general fund. To enable Buckinghamshire to receive money and make payments, the general fund must be in place from the reorganisation date. The date currently prescribed, in the Local Government (Structural Changes)(General)(Amendment) Regulations 2018 (2018/930) is 1st April 2019, one year previous to that date and must therefore be amended.

7.5 To provide for a workable prescribed date for the new Buckinghamshire authority's general fund to be established, these Regulations specify that the date is to be a generic one: the reorganisation date. This also avoids the necessity for further amendments to be made to the date prescribed for the establishment of a general fund, in the event of any subsequent local government reorganisations.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 The amendment made by these Regulations is minor and it is not considered necessary to consolidate the 2009 Regulations at this time.

10. Consultation outcome

10.1 There is no requirement to consult on these Regulations, which make a minor amendment necessary to enable coherent implementation of the requirement for newly established local authorities to maintain a general fund. As part of the department's continuing supportive engagement with the shadow Buckinghamshire Council, these regulations have been discussed with the council officials who are content with them.

11. Guidance

11.1 No guidance has been prepared for this instrument as it has not been deemed necessary since the changes it makes are minor. The Ministry of Housing, Communities and Local Government will continue to engage supportively with the local authorities to which these Regulations will apply.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it does not relate to the activities of businesses, charities or voluntary bodies.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The amendment made by this legislation is minor, however the Ministry of Housing, Communities and Local Government will consider any queries or representations about the operation of this legislation.

14.2 The legislation does not include a statutory review clause.

15. Contact

15.1 Luke Scofield at the Ministry of Housing, Communities and Local Government Telephone: 0303 444 2562 or email: luke.scofield@communities.gov.uk can be contacted with any queries regarding the instrument.

15.2 Paul Rowsell, Deputy Director for Governance Reform and Democracy, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

15.3 Luke Hall MP at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.